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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/507,278	12/09/2005	Kenneth Edward Frampton	DYOUP0277US	3848
23908 7590 01/14/2008 RENNER OTTO BOISSELLE & SKLAR, LLP 1621 EUCLID AVENUE NINETEENTH FLOOR CLEVELAND, OH 44115			EXAMINER KIANNI, KAVEH C	
			ART UNIT 2883	PAPER NUMBER
			MAIL DATE 01/14/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/507,278

Applicant(s)

FRAMPTON ET AL.

Examiner

Kianni C. Kaveh

Art Unit

2883

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-74 is/are pending in the application.
- 4a) Of the above claim(s) 20-74 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-8, 10, 12 and 14 is/are rejected.
- 7) ☒ Claim(s) 5, 9, 11, 13 and 15-19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Allowable Subject Matter***

Claims 5, 9, 11, 13 and 15-19 are objected to as being dependent upon a rejected base claim, but would be allowable *if, no longer are objected as stated above parag.*, and rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 5, 9, 11, 13 and 15-19 are allowable because the prior art of record, taken alone or in combination, fails to disclose or render obvious their respective limitations in combination with the rest of the limitations of the base claim.

## **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the

examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-4, 6-8, 10, 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horne et al. (US 6723435).

Horne teaches an extruder device (note that the limitation "extruder die" is not given patentable weight for not being supported by the body of the claim) for forming a preform for manufacture into an optical fiber (shown in fig. 1), comprising:

a central feed channel 284 for receiving a material supply by pressure-induced fluid flow (see at least fig. item material flow from 102 that flows through pressure-induced see col. 10, last parag.-col. 11, 1<sup>st</sup> parag.);

flow diversion channels arranged to divert a first component of the material radially outwards into a welding chamber formed within the device (see item diversion channel through nozzle 252; also see another type of radially diversion channel in fig. 9);

a core forming conduit arranged to receive a second component of the material from the central feed channel that has continued its onward flow (shown in fig. 1, item core of conduit 330 receiving material that has continued the flow); and

a nozzle having an outer part in flow communication with the welding chamber and an inner part in flow communication with the core forming conduit, to respectively define an outer wall and core of the preform (see at least col. 30, 4<sup>th</sup> parag. and fig. 1, item 310).

Horne further teaches wherein the device is provided with pairs of mutually facing internal walls that form gaps extending between the core forming conduit and the welding chamber and allow fluid communication therebetween, the gaps being shaped to form struts supporting the core in the outer wall (shown in at least fig. 1); wherein the

mutually facing internal walls incorporate at least one bend in order to increase the radial length of the struts (shown in at least fig. 1); wherein the internal walls have a radial length greater than the gap width (shown in at least fig. 1); wherein the outer part of the nozzle is shaped to provide a circular-section preform outer wall (see fig. 1); wherein the outer part of the nozzle deviates from a circular shape so as to provide sections of preform wall interconnecting wall-to-strut junctions that are shorter than would be required to form a circular-section preform outer wall (shown in at least fig. 1); wherein the outer part of the nozzle has a first dimension defining a wall thickness of the preform outer wall and wherein said first dimension is greater than said gap between the mutually facing internal walls that form the preform struts (shown in at least fig. 1); wherein the inner part of the nozzle has a second dimension defining a core thickness of the preform core and wherein said second dimension is greater than said gap between the mutually facing internal walls that form the preform struts (shown in at least fig. 1); wherein the flow diversion channels include a first group of the flow diversion channels which extend from the core forming conduit to the welding chamber (shown in at least fig. 1); wherein the flow diversion channels of the first group have a width dimension that is substantially constant in the feed direction (shown in at least fig. 1).

However, Horne does not explicitly teach wherein the above "extruder device" is in preamble is a "extruder die". Though this limitation is not given patentable weight for not being supported by the body of the claim, it is obvious/well-known to those of ordinary skill in the art when the invention was made that a device for manufacturing

optical fiber through glass preform is/known as extruder die since such device would provide fiber preform with desired composition (see col. 1, 2<sup>nd</sup> parag.).

***Response to Arguments and Amendment***

Applicant's argument filed on 10/22/07 have been fully considered but they are not persuasive.

Applicant asserts that Horne does not teach "extruder die". The examiner responds that although this limitation is not given patentable weight for not being supported by the body of the claim, it is obvious/well-known to those of ordinary skill in the art when the invention was made that a device for manufacturing optical fiber through glass preform is/known as extruder die since such device would provide fiber preform with desired composition (see col. 1, 2<sup>nd</sup> parag.).

Regarding applicant's assertion of Horne's priority date and that its Fig. 1 not being in the priority dated application, the examiner responds that as applicant correctly admits the date of the priority of Horne invention is before that of applicant's alleges and further more Fig. 1 is not the only part of the invention and that the other portions—i.e., specification—as well as at least conception and diligence of the application invention predates that of the applicant's.

***THIS ACTION IS MADE FINAL***

This action in response to applicant's amendment made FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**This application contains claims 20-74 are drawn to an invention nonelected with traverse in Paper No. 5. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.**

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kianni C. Kaveh whose telephone number is 571-272-2417. The examiner can normally be reached on 9:30-19:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank Font can be reached on 571-272-2415. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2883

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

K. Cyrus Kianni  
Primary Patent Examiner  
Group Art Unit 2883

K. CYRUS KIANNI  
PRIMARY PATENT EXAMINER

A handwritten signature in black ink, appearing to be 'K. Kianni', written over a horizontal line.

January 3, 2008

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